IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 12TH JANUARY 2007 / 22ND POUSHA 1928

RP.No. 12 of 2007(K)

AGAINST THE ORDER IN I.A.NO.14525/06 IN WPC.5775/2004
.....

PETITIONER

THE KERALA STATE LIBRARY COUNCIL,
THIRUVANANTHAPURAM 33,
REP. BY ITS SECRETARY.

BY ADV. SRI.P.V.SURENDRANATH

RESPONDENTS:

1.E.DAMODARAN,
KUNNUMMAL HOUSE, KOLLAM,
KOYILANDI, KOZHIKODE.

2.STATE OF KERALA,
REP. BY SECRETARY TO GOVT,
HIGHER EDUCATION DEPARTMENT,
SECRETARIATE,
THIRUVANANTHAPURAM.

3.THE ACCOUNT OFFICER,
KERALA STATE LIBRARY COUNCIL,
THIRUVANANTHAPURAM 33.

4.THE SECRETARY,
DISTRICT LIBRARY COUNCIL,
KOZHIKODE.

R1 BY ADV. SRI.R.PARTHASARATHY
R2 BY GOVT. PLEADER MR.MATHEW G.VADAKKEL

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 12/01/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

- -

R.P.No.12 of 2007 in W.P.(C) No.5775 of 2004

- -

Dated: 12th January, 2007

ORDER

The petitioner, the Kerala State Library Council represented by its Secretary was the second respondent in W.P.C.No.5775/04 and I.A.No.14525/06. The petitioner seeks review of my order in the I.A. by which I have allowed correction of direction No.1 in my judgment in the Writ Petition whereby the review petitioner was directed to release an amount of Rs.25,323/- instead of the amount of Rs.15,323/- shown in the uncorrected judgment to the petitioner at the earliest and at any rate within two months from the date of the order.

2. Today when the Review Petition came up for admission, I have heard the submissions of Mr.P.V.Surendranath, learned counsel for the petitioner and also those of Mr.R.K.Muralidharan, learned counsel for the 1st respondent.

3. Mr.Surendranath would submit that to I.A.No.8577/06 a detailed counter affidavit had been filed in which the review petitioner's liability to pay the amount in question, i.e., the amounts payable on account of Ext.P12 pay revision order had been seriously disputed. It was considering that dispute that this court directed release of a sum of Rs.15,323/- and therefore the remedy of the 1st

respondent was not to apply for a correction of the judgment but either to seek a review of the judgment or to go in appeal against the judgment. The present order has been passed only because a separate counter affidavit could not be filed with the application for correction. Mere correction of the judgment in any event was not the remedy available to the petitioner. The petitioner ought to have sought for correction of the pleadings since the judgment has come in terms of the pleadings.

3. Mr.R.K.Muralidharan would submit that it is not correct to say that the claim of the writ petitioner based on Ext.P12 pay revision order had been denied. There was no specific denial. The writ petitioner in paragraph 3 of the affidavit in support of I.A.No.8577/05 had committed the mistake of mentioning Rs.15,323/- instead of the correct figure of Rs.25,323/-, a mistake which became reflected in the judgment.

4. I have considered the rival submissions made at the Bar and gone through the affidavit in support of I.A.No.8577/05 as well as the counter affidavit submitted by the present review petitioner in the said I.A. It is true that in paragraph 3 of the counter affidavit there is a general denial of the averments in paragraph 3 of the affidavit. But

at the same time I do not find any specific denial of the claim based on Ext.P12. In any event, what I intended while delivering the judgment was to direct release all the claims of the petitioner based on Ext.P12 which had been already released to him to a substantial extent. The total claim was Rs.1,09,966/- and what has been paid already was Rs.84,643/-. The correct balance amount payable was Rs.25,323/-. Obviously it was by a mistake that the balance amount was shown in paragraph 3 of the affidavit as Rs.15,323/-. The contention that the writ petitioner should have been directed to seek amendment of the pleadings is too technical for receiving acceptance. I do not find any warrant for allowing the Review Petition. Accordingly, the Review Petition will stand dismissed.

srd **PIUS C.KURIAKOSE, JUDGE**